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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/692,920
Filing Date: October 20, 2000
Appellant(s): BANKER ET AL.

Robert Banker
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/08/2008 appealing from the Office action mailed 7/22/2008.

(1) Real party in Interest

A Statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5 850 218	LaJoie	12-1998
5 721 897	Rubenstein	2-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 32, 34, 35, 38 -40, 42 - 45, 52 – 55 and 57-59 rejected under 35

U.S.C. 103(a) as being unpatentable over LaJoie, patent number: US 5 850 218 in view of Rubienstien, patent number: US 5 721 897.

As per claims 1, 2, 52 and 59, LaJoie teaches a method for providing media information to a user via an interactive media services client device coupled to a programmable media services server device (Distribution Fig. 1, 6, 15), said method comprising steps of:

"media services client device for providing media to a user" [6] comprising a "processor" [30] and "memory for storing media information . . . corresponding to a plurality of respective accessible media" [32] that are received via a server [15] (user receiving data, col. 10, line 42 - col. 11, lines 19, 45 - 60);

Configuring a display order of media titles in the received media information according to the value of a media information parameter (col. 27, lines 64 – col. 28, line 26);

Configuring the continuous sequence of user-selectable index for indexing the media titles in the display order, each user-selectable index corresponding directly to the media titles in the received media information determined by a respective values of the media information parameter corresponding to the user selectable index (selectable index that display information, col. 25, lines 15 – 33, col. 28, lines 16 - 26), such that selection of any of the user-selectable index automatically provides the media titles corresponding to the selected index (selectable index that display information, col. 25, lines 15 – 33, col. 28, lines 16 - 26);

Presenting, to the user, the selectable index in an interactive media guide display (Fig. 22 and 23);

Receiving selection of a first user-selectable index, the selection being a triggering event to provide at least a portion of the media titles corresponding to the first user-selectable index range and without presenting an additional index that was not previously presented prior to selection of the first user selectable index (display based on selection, Fig. 22 and 23, col. 28, lines 16 - 49)

Directly responsive to a user selecting a first user selectable index range, providing simultaneously in the display order at least a portion of the media titles corresponding to the first user selectable index range (Fig. 22 and 23, col. 28, lines 16 - 49)

LaJoie does not teach Configuring each index in a continuous sequence of variably sized user selectable index ranges the size of each of the index ranges based on a predetermined threshold number of media titles; each of the user selectable index range being configured to provide the media titles according to the threshold defining a predetermined number of media titles. Wherein, in response to determining that the number of media titles corresponding to the first user selectable index range is less than the threshold, combining the first user selectable index range with an index within another user selectable index range such that the media titles corresponding to the first user-selectable index may be accessed via a combined user selectable index range.

In an analogous art, Rubenstein teaches configuring each index (512, Fig. 5) in a continuous sequence of variably sized user selectable index ranges the size of each of the index ranges based on a predetermined threshold number of media titles; each of the user selectable index range being configured to provide the media titles according to the threshold defining a predetermined number of media titles.

Wherein, in response to determining that the number of media titles corresponding to the first user selectable index range is less than the threshold, combining the first user selectable index range with an index within another user selectable index range such that the media titles corresponding to the first user-selectable index may be accessed via a combined user selectable index range (col. 27, line 64 – col. 28, line 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the interactive program of LaJoie by including an indexing

configuration as described in Rubenstein's browsing system for the advantages of having predictable results of facilitating the quick retrieval of information of interest.

Claims 3 and 39 are rejected wherein the "range of values defining each user-selectable index is selected from a group consisting of: an alphanumeric character [and] a plurality of alphanumeric characters" (Eick et al.: Figures 16-22).

Claims 4 and 40 is rejected wherein the "media information parameter is selected from the group consisting of title name . . . " (LaJoie et al.: Figure 22; Col 27, Line 64 – Col 28, Line 26).

Claims 5 is rejected wherein the method/system comprises "receiving user input identifying the media information parameter" such as Title - Letter for "indexing the media titles" (LaJoie et al.: Figure 22; Col 27, Line 64 – Col 28, Line 26).

Claims 32 and 34 are rejected in light of the aforementioned wherein the system "receives user input identifying the first user-selectable index range" wherein "user input is initiated by the user pressing an arrow button on a remote control" (LaJoie et al.: Col 28, Lines 16-26, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 35 is rejected wherein Figures 17-23 of LaJoie et al. illustrate that the "interactive media guide includes a plurality of indexing prompts and a plurality of media titles".

Claims 38 and 42 are rejected in light of the combination of references and in particular the teachings of LaJoie et al. The LaJoie et al. reference sets forth that upon entry to the indexing by alphabetical list that the previous indexing term associated with "user input designating . . . [a] media title to be highlighted" is highlighted as the default

(LaJoie et al.: Col 27, Line 64 – Col 28, Line 15). Accordingly, taken in combination in response to the user selecting a first program for viewing (ex. “CBS Sports Special) and returning to and selecting or highlighting another program (Ex. “Extreme Skiing”), the system would subsequently, “[highlight] a second user-selectable index range associated with a second media title . . . in response to the client device receiving user input designating said second media title to be highlighted” upon the user returning to accessing the program Title – Theme – Letter indexing functionality.

Claim 43 is rejected wherein the “each respective range of values is further determined according to a first threshold defining a “first range of values defining the first user-selectable index is an alphanumeric character” (ex. “N”) and a “second range of values defining a second user-selectable index is at least two alphanumeric characters” (ex. “N**”) or all titles up to the established threshold (MAXDISPLAY = 6) in the set defined by {N – Nzzz . . . } (Eick et al.: Figures 18-20).

Claims 44, 45, and 55 are rejected wherein the “first range of values defining the first user-selectable index range is an alphanumeric character” (ex. “N”) and a “second range of values defining a second user-selectable index range is at least two [or a plurality of] alphanumeric characters” (ex. “N**”) or all titles up to the established threshold (MAXDISPLAY = 6) in the set defined by {N – Nzzz . . . } (Eick et al.: Figures 18-20, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claims 53 and 54 are rejected in light of the aforementioned wherein the “portion of the received media information corresponds to a user-selected category” wherein the “user-

selected category corresponds to the media titles in the received media information corresponding to all the movies in the media information" (LaJoie et al.: Figure 20).

Claim 57 is rejected in light of the aforementioned wherein the LaJoie et al. reference teaches that the "media titles are ordered based on both the user-selected category, index range and the first user-selectable media" (Ex. Title – Theme – Letter, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 58 is rejected wherein the "first user-selectable index and a first media title associated with said first user-selectable index range are highlighted" (LaJoie et al.: Figure 22; Col 28, Lines 27-39, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claims 16 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. (US Pat No. 5,850,218), in view of Rubinstein (US Pat No. 5,721,897), and in further view of Knudson et al. (US Pub No. US 2005/02024387)

In consideration of claims 16 and 48, the LaJoie et al. reference discloses that the media guide and associated functionality is provided to cable subscribers. The reference, however, does not explicitly that cable subscribers are "charged a fee in connection with the provision of indexing functionality" associated with being allowed to access the cable provider's network/services. In an analogous art pertaining to the display of program guide information, the Knudson et al. reference provides evidence that cable subscribers are "charged a fee in connection with" access to interactive services including those associated with interactive media guides whereupon lack of payment disables access to those services (Figure 105; Para. [0211]). Accordingly, it

would have been obvious to one having ordinary skill in the art at the time the invention was made to “charge the user a fee in connection with the provision of indexing functionality” for the purpose of charging subscribers usage fees in order for service providers to re-coup costs and profit from providing cable services.

Claims 17, 18, 21-23, 25-27, 46, 47, 49, 50, 51, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. (US Pat No. 5,850,218), Rubinstein (US Pat No. 5,721,897), and in further view of Young et al. (US Pat No. 5,808,608).

An interactive media services client device for providing media information to a user [6] comprising:

memory for storing media information received from a server [32], said media information

corresponding to a plurality of respective accessible media; and a processor [30] configured to:

present, to the user, the selectable index in an interactive media guide display, determine the media titles in the received media information corresponding to each user-selectable index and a user-selected category (selectable index that display information, col. 25, lines 15 – 33, col. 28, lines 16 - 26);

and

directly responsive to a user input, provide simultaneously in the display order at least a portion of the media titles in the received media information corresponding to a first user-selectable index and the user-selected display, without presenting an additional index that was not previously presented prior to selection of the first user-selectable index (display based on selection, Fig. 22 and 23, col. 28, lines 16 - 49)

LaJoie does not teach a user selectable index range and each of the user selectable index ranges being configured to provide a portion of the media titles based on a predetermined threshold number of media titles, directly in response to selection of one of the selectable index ranges;

enable a continuous sequence of variably sized user-selectable index ranges for indexing displayed media titles, each user-selectable index range directly corresponding to a range, the size of each of the index ranges based on a predetermined threshold number of media titles;

causing a display order of the media titles in the received media information according to the value of the release year and range of time of the media title;

In an analogous art, Rubenstein teaches each of the user selectable index ranges being configured to provide a portion of the media titles based on a predetermined threshold number of media titles, directly in response to selection of one of the selectable index ranges. Enable a continuous sequence of variably sized user-selectable index ranges for indexing displayed media titles, each user-selectable index range directly

corresponding to a range, the size of each of the index ranges based on a predetermined threshold number of media titles (col. 27, line 64 – col. 28, line 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the interactive program of LaJoie by including an indexing configuration as described in Rubenstein's browsing system for the advantages of having predictable results of facilitating the quick retrieval of information of interest. The combination of LaJoie and Rubenstein does not teach causing a display order of the media titles in the received media information according to the value of the release year and range of time of the media title.

In an analogous art, Young teaches causing a display order of the media titles in the received media information according to the value of the release year and range of time of the media title (Young: col. 13, lines 60 – col. 15, line 23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of LaJoie and Rubenstein by including a system that also sorts program based on date as described in Young's television schedule system for the advantages of ordering the display of information based on available characteristics.

Claim 18 is rejected in light of the aforementioned wherein "only media titles belonging to a sub-list of media titles", or those corresponding to the user-selected index or category is "presented to the user" in light of the combined references (LaJoie et al.: Col 6, Lines 29-46).

Claims 21 and 23 are rejected in light of the aforementioned wherein the system "receives user input identifying the first user-selectable index range" wherein "user input is initiated by the user pressing an arrow button on a remote control" (LaJoie et al.: Col 28, Lines 16-26, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 22 is rejected wherein the "media titles are ordered based on the user-selected category and the first user-selectable index range" in light of the combined references (LaJoie et al.: Col 27, Lines 24-28, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 25 is rejected wherein the "first user-selectable index and a first media title associated with said first user-selectable index range are highlighted" (LaJoie et al.: Figure 22; Col 28, Lines 27-39, Rubenstein, col. 10, line 47 – col. 11, line 10).

In consideration of claim 26, the LaJoie et al. reference sets forth that a media title may be highlighted in response or subsequent to the user designating that particular user selectable index range (Col 28, Lines 16-39). Accordingly, the reference meets the limitation "wherein a second media title associated with a second user-selectable index range is highlighted in response to the client device receiving user input designating said second user-selectable index range to be highlight" in connection with the user selecting a program and index other than an established default (Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 27 is rejected in light of the combination of references and in particular the teachings of LaJoie et al. The LaJoie et al. reference sets forth that upon entry to the indexing by alphabetical list that the previous indexing term associated with "user input

designating . . . [a] media title to be highlighted" is highlighted as the default (LaJoie et al.: Col 27, Line 64 – Col 28, Line 15). Accordingly, taken in combination in response to the user selecting a first program for viewing (ex. "CBS Sports Special) and returning to and selecting or highlighting another program (Ex. "Extreme Skiing"), the system would subsequently, "[highlight] a second user-selectable index range associated with a second media title . . . in response to the client device receiving user input designating said second media title to be highlighted" upon the user returning to accessing the program Title – Theme – Letter indexing functionality (Rubenstein, col. 10, line 47 – col. 11, line 10).

In consideration of claims 46, 47, and 56, the combination of LaJoie et al. and Rubenstein is silent with respect to the "media information parameter corresponding to a media release year . . . " as recited in the claims. However, as aforementioned, the LaJoie et al. reference suggests that the system is operable to further provide multiple sort criteria based upon any one or set of program characteristics. The release year of the media is a characteristic of the media. The Young et al. reference discloses utilizing a "media information parameter corresponding to a media release year, the first range of values defining the first user-selectable index is a year, and a second range of values defining a second user-selectable index is a plurality of years" (Young et al.: Col 13, Line 60 – Col 15, Line 23). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify LaJoie et al., as suggested, to utilize other program characteristics in connection with indexing program titles including the utilization of the "value of the release year of the media" as an user-

selectable index as taught by Young et al. for the purpose of ordering the display of information most conveniently for the user based upon available program characteristics (Young et al.: Col 2, Lines 43-57). Rubenstein talks about the index range in col. 10, line 47 – col. 11, line 10.

Claim 49 is rejected in light of the aforementioned wherein the “user-selected category corresponds to the media titles in the received media information corresponding to all the movies in the media information” (LaJoie et al.: Figure 20).

In consideration of claim 50, the “user-selected category corresponds a portion of the media titles in the received media information corresponding to one from . . . drama” as in the case of the designation of the user-selected category “Movie” which corresponds to media titles such as Movie/Drama entitled “Casablanca” (LaJoie: Figure 22).

Claim 51 is rejected wherein a “first range of values corresponding to the first user-selectable index range is a year, and a second range of values corresponding to a second user-selectable index range is a plurality of years” (Young et al.: Col 14, Lines 56-64, Rubenstein, col. 10, line 47 – col. 11, line 10).

(10) Response to Argument

Appellant initially submits that the rejection should be overturned based on the combination of LaJoie and Rubinstein not teaching all elements of the claims at issue, the examiner respectfully disagrees.

With regards to appellant's arguments corresponding to claims 1 and 59 about the combination of LaJoie and Rubenstein not suggesting "configuring each index in a continuous sequences of variably sized user-selectable index ranges... the size of each of the index ranges based on a predetermined threshold number of media titles", LaJoie teaches an EPG that gives access to available programs by providing indexes that correspond to television programs. An example of indexes corresponding to TV programs is Fig. 20. Fig. 20 shows an EPG with different sections on the page. The page contains a reduced version of the selected video, an information widow for the selected program and a program listing with themes to the left; these themes are interpreted as the indexes. The user is given the ability to select themes. Based on the theme selected, the system displays programs. LaJoie also teaches letters that correspond to programs as described in Fig. 22. Just as described above when any letter is selected, programs are displayed that correspond to the selected letter, col. 27, line 64 – col28, line 26.

Rubenstein teaches a system that lets a user browse content based on relevant keywords, it teaches a keyword pane that includes a tabbed index which is used to select for display the key words or key phrases beginning with the letters or numbers on a corresponding selected tab of tabbed indexes, the indexes including alphanumeric

symbols. Rubenstein further teaches a system of dynamically generating indexes. The generation is done by scanning the keyword and key phrases, tallying the number of occurrences of the alphanumeric characters. The average number of keyword beginning with the same alphanumeric character is then computed and then groups of sequential characters are collected so that the total number of key words beginning with the alphanumeric character from the group approaches the average previously calculated (col. 10, lines 53 - 63).

The appellant argues that the comparison in Rubinstein is to a computed average rather than a "predetermined threshold".

From the above explanation, it is clear that Rubinstein calculates an average value based on keyword occurrence then uses the value calculated as a limiting value for indexing, col. 10, lines 52 – 67. Hence, using a calculated average value to limit subsequent index grouping is equivalent to using a threshold or predetermined number to control and indexing process.

Also, in response to arguments about the threshold being determined before the index is configured. Rubinstein talks about inserting the alphanumeric character that represents an index after the characters corresponding to the index are determined (col. 11, lines 5 - 10).

With regards to appellant's arguments with regard to claim 2, see response above.

With regards to appellant's arguments with regard to claim 52, see response above.

With regards to appellant's arguments with regard to claim 17, see response above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Olugbenga O Idowu/

Examiner, Art Unit 2425

Conferees:

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